

JUN 20 2011

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

| | | |
|--------------------------|---|------------------------------|
| UNITED STATES OF AMERICA |) | CRIMINAL NO. 7:05CR00040-1 |
| |) | |
| |) | <u>§ 2255 FINAL ORDER</u> |
| vs. |) | |
| |) | |
| ERNEST FREDERICK HODGES |) | By: Samuel G. Wilson |
| |) | United States District Judge |

In accordance with the accompanying memorandum opinion, it is hereby

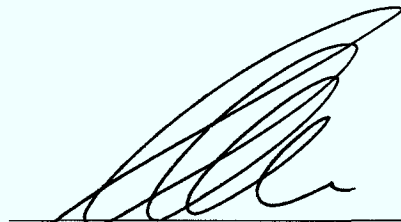
ORDERED

that Hodges' motion (Dkt. No. 132) is construed as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255; this § 2255 action is **DISMISSED without prejudice** as successive and this case is **STRICKEN** from the active docket of the court.

Further, finding that Hodges has failed to make the requisite substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The clerk will send a copy of this order and the accompanying memorandum opinion to petitioner.

ENTER: This 20th day of June, 2011.


United States District Judge